## IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NORTH CAROLINA WESTERN DIVISION No. 5:15-HC-2226-D

KELVIN D. McKEITHAN,	)	
	)	
Petitioner,	)	
	)	
v.	)	ORDER
	)	
CARLTON JOYNER,	)	
	)	
Respondent.	)	ı

On June 1, 2016, Magistrate Judge Numbers issued a Memorandum and Recommendation ("M&R") [D.E. 7]. In that M&R, Judge Numbers recommended that the court dismiss Carlton Joyner's ("Joyner") 28 U.S.C. § 2254 petition for failure to state a claim upon which relief can be granted. No party objected to the M&R.

"The Federal Magistrates Act requires a district court to make a de novo determination of those portions of the magistrate judge's report or specified proposed findings or recommendations to which objection is made." <u>Diamond v. Colonial Life & Accident Ins. Co.</u>, 416 F.3d 310, 315 (4th Cir. 2005) (emphasis, alteration, and quotation omitted); <u>see</u> 28 U.S.C. § 636(b). Absent a timely objection, "a district court need not conduct a de novo review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." <u>Diamond</u>, 416 F.3d at 315 (quotation omitted).

The court has reviewed the M&R and the record. The court is satisfied that there is no clear error on the face of the record. Accordingly, the court adopts the conclusions in the M&R [D.E. 7].

In sum, the petition is DISMISSED without prejudice. The clerk shall close the case.

## SO ORDERED. This 11 day of November 2016.

AMES C. DEVER III

Chief United States District Judge